



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

SENTRIX PHARMACY AND DISCOUNT LLC

Respondent Name

Hartford Underwriters Insurance Co

MFDR Tracking Number

M4-17-0300-01

Carrier's Austin Representative

Box Number 47

MFDR Date Received

October 4, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Sentrix Pharmacy and Discount, LLC (the 'Pharmacy') requests payment for the services rendered to [the injured employee] on 7/1/16. The service rendered was the filing and dispensing of prescription medication. The claim(s) in question were properly submitted pursuant to the *Pharmaceutical Benefits* rules codified in 28 Texas Administrative Code (TAC) §134.500 through §134.550.

The insurance carrier, Hartford, failed to take final action on the claim within the 45-day period set forth in TAC §133.240. Specifically the claim was submitted on 7/1/16 and it was received by the provider on 7/6/16 (as verified by the attached proof of delivery) and no action was taken on the claim. Sentrix made a good faith effort to notify the carrier of their failure to respond to the bill on 8/23/16 and it was received by the provider on 8/29/16 (as verified by the attached proof of delivery). Again, no action was taken on the claim."

Amount in Dispute: \$2,488.99

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: The respondent's position statement contains new denial reasons or defenses that were not presented to the requestor prior to the filing of a medical fee dispute. As will be explained below, the respondent has waived any such new defenses or denial reasons—which shall not be addressed in this review. The respondent is limited to those denial reasons or defenses raised by the carrier during the bill review process (*prior* to the filing of the medical fee dispute). The respondent did not submit information to support that any denial reasons or defenses were presented to the requestor before the filing of the request for medical fee dispute resolution; therefore the division finds a waiver of denial reasons. Any newly raised defenses shall not be considered.

Response Submitted by: The Hartford

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 1, 2016	Pharmacy Services – compound drug(s) dispensed	\$2,488.99	\$2,488.99

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.2 defines terms related to medical billing and processing.
3. 28 Texas Administrative Code §133.240 sets out procedures for medical bill payments and denials.
4. 28 Texas Administrative Code §133.302 defines terms related to medical billing and processing.
5. 28 Texas Administrative Code §133.240 sets out procedures for medical bill payments and denials.
6. 28 Texas Administrative Code §134.502 sets out provisions regarding pharmaceutical benefits.
7. 28 Texas Administrative Code §134.503 sets out the pharmacy fee guideline.
8. 28 Texas Administrative Code §134.530 sets out requirements for use of the closed pharmacy formulary.
9. 28 Texas Administrative Code §134.600 sets out requirements regarding preauthorization.
10. Texas Labor Code §408.027 sets out provisions regarding payment of health care providers.
11. The explanation of benefits submitted by the respondent is dated October 25, 2016. It was issued by the insurance carrier *after* the filing of the medical fee dispute request (which was received by the division on October 4, 2016). 28 Texas Administrative Code §133.307(d)(2)(F) requires that the response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review. As the submitted EOB was presented to the requestor *after* the MFDR request was filed, any new denial reasons or defenses contained in the EOB have been waived, and shall not be considered in this review.

Issues

1. Are there any outstanding issues of medical necessity in regard to the services in dispute?
2. Did the insurance carrier timely pay, reduce, deny or take final action on the services in dispute?
3. What is the recommended reimbursement for the disputed pharmacy services?
4. Is the requestor entitled to additional reimbursement?

Findings

1. The insurance carrier presented documentation of an adverse determination, issued September 30, 2016, after a prospective utilization review of preauthorization for dates of service unrelated to this dispute. The division's closed pharmaceutical formulary states, at 28 Texas Administrative Code §134.530(b)(1):

Preauthorization is only required for:

- (B) any compound that contains a drug identified with a status of "N" in the current edition of the ODG Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary

None of the component drugs of the dispensed compound were found to be "N" status drugs under ODG Appendix A on the date of service.

The insurance carrier did not provide any documentation to support that authorization had been denied for the services as dispensed on the date of service. No documentation of any utilization review was presented (neither prospective nor retrospective) in regard to the date of service in dispute.

No documentation was presented to support any adverse determination had been issued with respect to the disputed services in accordance with the requirements of Rules §133.240(q), §134.502(g), and §134.600.

Consequently, the division finds that preauthorization was not required for the disputed prescription drug compounds and the insurance carrier has failed to support its denial reasons. The disputed items will therefore be considered for reimbursement according to applicable division rules and fee guidelines.

For these reasons the division concludes there are no outstanding issues of medical necessity raised in regard to these disputed services. The division will therefore proceed to review the medical fee issues.

2. The requestor contends that the insurance carrier “has not sent . . . any type of correspondence, EOB, or payments” for the disputed pharmacy services.

Texas Labor Code Sec. 408.027(b), requires that:

The insurance carrier must pay, reduce, deny, or determine to audit the health care provider's claim not later than the 45th day after the date of receipt by the carrier of the provider's claim.

Corresponding Rule §133.240(a) requires that:

An insurance carrier shall take final action after conducting bill review on a complete medical bill, or determine to audit the medical bill in accordance with §133.230 of this chapter (relating to Insurance Carrier Audit of a Medical Bill), not later than the 45th day after the date the insurance carrier received a complete medical bill. An insurance carrier's deadline to make or deny payment on a bill is not extended as a result of a pending request for additional documentation.

Final action on a medical bill is defined in 28 Texas Administrative Code §133.2(6) as:

- (A) sending a payment that makes the total reimbursement for that bill a fair and reasonable reimbursement . . . and/or
- (B) denying a charge on the medical bill.

Review of the submitted information finds convincing evidence of the insurance carrier receipt of the initial pharmaceutical bill(s). The insurance carrier’s response acknowledges receiving the initial bill submission on July 6, 2016. The provider states they did not receive an EOB or any type of correspondence.

Documentation supports that a request for reconsideration and to furnish an EOB was submitted to the insurance carrier on August 22, 2016 by registered mail with documentation to support delivery to the insurance carrier on August 29, 2016. The requestor did not receive any response.

While the submitted evidence supports the health care provider’s timely submission of the medical bills to the insurance carrier, along with a request for explanations of benefits (EOBs), no information was found to support that the insurance carrier took final action or issued EOBs in accordance with the requirements of 28 Texas Administrative Code § 133.240 (a) and (e).

The respondent did not present any EOBs (that were issued prior to the filing of the request for MFDR) for review with the response documentation—as required by Rule §133.307(d)(2)(B), which states that the respondent shall provide “a paper copy of all initial and appeal EOBs related to the dispute . . .”

The respondent’s position statement asserts that the original bill “was denied per Drug Review Nurse.” However, no documentation was presented to support that the health care provider was notified of such a denial or that any EOB or adverse determination was issued, or sent to the health care provider. Nor was any documentation presented to support that the health care provider was afforded any opportunity to speak with a peer or any of the other requirements prior to issuing such an adverse determination.

The division reiterates that the adverse determination mentioned above was a prospective review of authorization and not a retrospective review of services performed—and more specifically was not a retrospective review of the services involved in *this* dispute. No documentation was presented to support the insurance carrier took final action on the disputed services in accordance with the requirements and time limits prescribed by division rules.

Rule § 133.240(a) requires that:

An insurance carrier shall take final action after conducting bill review on a complete medical bill . . . **not later than the 45th day** [emphasis added] after the insurance carrier received a complete medical bill.

Rule §133.240 (e) requires that:

The insurance carrier shall send the explanation of benefits in accordance with the elements required by §133.500 and §133.501 of this title . . . The explanation of benefits shall be sent to:

- (1) the health care provider when the insurance carrier makes payment or denies payment on a medical bill . . .

All workers' compensation insurance carriers are expected to fulfill their duty to take final action as required by law and the division's administrative rules. The insurance carrier failed to do so in this case.

Rule §133.307(d)(2)(F) requires that:

The response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review.

The insurance carrier's failure to issue explanations of benefits to the health care provider constitutes grounds for the division to find a waiver of defenses at Medical Fee Dispute Resolution.

The respondent submitted an explanation of benefits processed on October 25, 2016—after the filing of the request for medical fee dispute resolution. In accordance with Rule §133.307(d)(2)(F), the newly raised defenses and denial reasons shall not be considered in this review.

As no information was presented to support that the insurance carrier had provided to the requestor any denial reasons or defenses in regard to the disputed services during the bill review process, prior to the filing of the MFDR request, the division finds the respondent has waived any such defenses. The disputed services will therefore be reviewed for payment according to applicable division rules and fee guidelines.

3. The disputed pharmacy services are in regard to the dispensing of prescription drugs with reimbursement subject to 28 Texas Administrative Code §134.503(c), which requires that:
 - (c) The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:
 - (1) the fee established by the following formulas based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed:
 - (A) Generic drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (B) Brand name drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.09) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (C) When compounding, a single compounding fee of \$15 per prescription shall be added to the calculated total for either paragraph (1)(A) or (B) of this subsection; or
 - (2) notwithstanding §133.20(e)(1) of this title (relating to Medical Bill Submission by Health Care Provider), the amount billed to the insurance carrier by the:
 - (A) health care provider;

Reimbursement for the disputed prescription drugs is calculated as follows:

Compound dispensed July 1, 2016

Ingredient(s)	NDC & Type	Unit Price	Total Units	AWP Formula §134.503(c)(1)	Billed Amount §134.503(c)(2)	Lesser of (c)(1) or (c)(2)
SALT STABLE LS ADVANCED	395602157 *Brand*	\$3.36	170	$(\$3.36 \times 170.4) \times 1.09 = \624.07	\$572.47	\$572.47
BACLOFEN	38779038808 Generic	\$35.63	9.6	$(\$35.63 \times 9.6) \times 1.25 = \427.56	\$341.99	\$341.99
AMANTADINE HCL	38779041105 Generic	\$24.23	19	$(\$24.23 \times 19.2) \times 1.25 = \581.40	\$465.19	\$465.19
AMITRIPTYLINE HCL	58597800308 Generic	\$19.15	4.8	$(\$19.15 \times 4.8) \times 1.25 = \114.90	\$91.84	\$91.84
GABAPENTIN	58597801407 Generic	\$62.84	12	$(\$62.84 \times 12) \times 1.25 = \942.60	\$754.16	\$754.16
KETOPROFEN	58597801707 Generic	\$10.97	24	$(\$10.97 \times 24) \times 1.25 = \329.10	\$263.34	\$263.34
Total Units:			240	Total:		\$2,488.99

4. The maximum allowable reimbursement is \$2,488.99. The insurance carrier has paid \$0.00. The requestor is seeking \$2,488.99. This amount is recommended.

Conclusion

In resolving disputes regarding the amount of payment due for health care determined to be medically necessary and appropriate for treatment of a compensable injury, the role of the division is to adjudicate the payment, given the relevant statutory provisions and division rules.

The Division would like to emphasize that the findings and decision in this dispute are based on the evidence presented by the requestor and respondent available at the time of review. Even though all the evidence was not discussed, it was considered.

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$2,488.99.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Sec. 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$2,488.99, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

_____	Grayson Richardson	May 12, 2017
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with Rule §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.